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HUMAN RIGHTS COMMITTEE

Sixty-fourth session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 1705th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 21 October 1998, at 3 p.m.

Chairperson: Ms. CHANET

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* The summary record of the second part (closed) of the meeting appears as document CCPR/C/SR.1705/Add.1.

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The meeting was called to order at 3.15 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 4) (continued)

Third periodic report of Iceland (CCPR/C/94/Add.2; HRI/CORE/1/Add.26; CCPR/C/64/Q/ICE/1) (continued)

1. At the invitation of the Chairperson, Mr. Geirsson, Mr. Jónsson and Mr. Gudmundsson (Iceland) resumed their places at the Committee table.

2. The CHAIRPERSON invited the delegation of Iceland to conclude its replies to questions asked by the Committee at the previous meeting.

3. Mr. GEIRSSON (Iceland), responding to a question about the complaints procedure under the Information Act, said that complaints were filed with a special committee chaired by the Prime Minister. A petitioner who was not satisfied with the committee's response could take legal action. In a recent case, a court had ordered a State-run bank to reveal information to the press.

4. Under article 10 of the Pharmaceutical Products Act it was prohibited to carry out scientific or medical experiments without the consent of the individual concerned or of his or her family, regardless of whether the experiment was intended to benefit the individual or the general public. Although the second sentence of article 7 of the Covenant was not incorporated in article 68 of the Icelandic Constitution, the commentary to article 68 specifically referred to the sentence in question and interpreted the article as including a prohibition of non-consensual medical and scientific experimentation. A bill on genetic research which tackled such fundamental issues as personal data security was currently before the Althing. He could not provide more specific information for the time being, however, because the discussions were still at a preliminary stage.

5. In response to the question concerning equality of men and women, he drew attention to the draft version of Iceland's third and fourth report to the Committee on the Elimination of Discrimination against Women, which had been circulated to the members.

6. A law enacted in 1996 laid down the rules governing financial compensation for victims of violence in Iceland. The law requiring persons of no religious persuasion to pay established dues to the University of Iceland was still on the statute book. As the State levied a tax on members of religious associations to meet the expenses of those associations, it was felt that the principle of equality of taxation called for the imposition of a comparable tax on non-members.

7. No Icelandic law had been challenged or revoked on the grounds that it was incompatible with the Covenant.

8. The CHAIRPERSON invited the delegation to reply to the issues raised in paragraphs 4 to 7 of the list of issues (CCPR/C/6/Q/ICE/1).

9. Mr. GUDMUNDSSON (Iceland) said, in response to the request for information in paragraph 4 of the list of issues, that section 65 of the Constitution, as amended by Act No. 97/1995, replaced the previous section on liberty and security of persons. The wording had been brought into line with international human rights provisions, particularly article 9 of the Covenant and article 5 of the European Convention on Human Rights. The new provision in subsection 1 that no one should be deprived of his liberty save in accordance with the law would be interpreted in the light of article 5, paragraph 1, of the European Convention on Human Rights. New subsection 2 protected the right of a person who was deprived of his liberty to be informed promptly of the reasons therefor. New subsection 4 reproduced the provision of article 9, paragraph 4, of the Covenant and new subsection 5 guaranteed the right of a person who had been the victim of unlawful arrest or detention to have an enforceable right to compensation. Those rights had not been explicitly enunciated in the earlier version of the Constitution, but they had been protected by statutes or recognized as unwritten but constitutionally protected legal principles.

10. As to the issue raised in paragraph 5 (a), the Government had not yet considered withdrawing the reservation to article 10, paragraph 2 (b), and to the second sentence of article 10, paragraph 3, with respect to the separation of juvenile prisoners from adults, mainly because there were so few juvenile prisoners. However, an agreement was being negotiated so that such prisoners could serve their time in institutions run by the government Agency for Child Protection. Article 2 of the draft agreement between the State Prison Administration and the Agency for Child Protection stipulated that prisoners under the age of 18 should be kept in rehabilitation centres operated in accordance with legal provisions governing the protection of children and young people and offering special treatment.

11. In regard to the request for information in paragraph 5 (b), the four-year action plan for prisons launched in 1993 had not yet been fully implemented but the main project, the construction of a new prison at Litla-Hraun, had been completed in 1996. The remand prison at Siðumúli had been closed and demolished and it was hoped to complete the new Reykjavik remand prison in 2002, following which the old Reykjavik prison and the prison in Akureyri would be closed. Facilities for prisoners, wardens, doctors and other staff would be modernized in the new prisons. There were also plans to modernize prison administration, improve education for prison officers and provide better educational, sports and employment facilities for inmates.

12. With reference to the issues raised in paragraph 6, the Government had decided to maintain its reservation regarding article 14, paragraph 7, of the Covenant because the Code of Criminal Procedure allowed a case to be reopened, even when a person had been acquitted, if new facts came to light or if there had been a fundamental defect in the previous proceedings that could have affected the outcome of the case. No judicial decision had been handed down in a case where a trial had been reopened because the individual had later confessed or because new information had emerged that unambiguously established the individual's guilt.

13. In response to the request for information in paragraph 7 of the list of issues, he said that section 73 of the amended Constitution expanded the

previous provision on freedom of expression, adding a right to freedom of opinion and protecting all forms of expression. The wording was based on that of article 19 of the Covenant and article 10 of the European Convention on Human Rights and was to be interpreted in the light of those provisions. The grounds for limiting freedom of opinion and expression enumerated in section 73, subsection 3, were in line with those contained in article 10, paragraph 2, of the European Convention on Human Rights and would be similarly construed.

14. Mr. WIERUSZEWSKI commended the delegation on the prompt submission of the third periodic report (CCPR/C/94/Add.2) and on the highly professional approach it had adopted in its replies to the Committee's questions.

15. Referring to article 14, paragraph 5, of the Covenant, he noted from paragraph 62 of the report that a convicted person's right to appeal had been restricted under Act No. 19/1994. Could the delegation cite any case law or statistics to indicate the extent to which the new legislation had restricted the right to have a conviction and sentence reviewed by a higher tribunal and hence had limited the number of appeals?

16. In connection with article 22 of the Covenant and paragraph 78 of the report, it seemed that Iceland had amended the provision in the Constitution concerning negative freedom of association, in other words compulsory participation in associations, in response to a ruling against Iceland in the European Court of Human Rights. However, compulsory participation could still be imposed by law in certain circumstances. What exactly were those circumstances? Moreover, new article 74 of the Constitution stipulated that the activities of certain associations could be temporarily suspended and that legal action in such cases must be brought without undue delay. He inquired about the grounds for such suspension and the meaning of the provision regarding legal action.

17. Lord COLVILLE said that Iceland's second periodic report (CCPR/C/46/Add.5) had referred to Act No. 19/1991, which provided for major improvements in criminal procedure. It had been too early at the time to assess the impact of the legislation on the quality of criminal trials but it should now be possible to evaluate its success.

18. He had been surprised to learn that, pursuant to the Code of Criminal Procedure, a person who was found guilty in a criminal trial must pay the costs of the proceedings. In his experience, the more serious the case and the longer the trial, the less capable a convicted person would be of defraying such costs. What was the current practice in Iceland?

19. Another point related to article 14, paragraph 2, of the Covenant. It was stated in both the second and the third periodic reports that, although there was no specific provision on presumption of innocence in Icelandic law, the presumption was guaranteed by having the burden of proof rest with the prosecution. Surely, it would be better to incorporate the concept of presumption of innocence into domestic law, thereby ensuring that it applied not only to the trial itself but also to the whole legal process, including pre-trial detention.

20. Ms. EVATT thanked the delegation for providing the Committee with a copy of the draft version of Iceland's report to the Committee on the Elimination of Discrimination against Women, which contained useful information on how the rights of women were guaranteed. However, although that body's mandate overlapped to some extent with that of the Committee, the legal framework for its work was somewhat different, and it should not be assumed that reporting under one instrument fully discharged a State party's obligations in regard to another.

21. At the time Iceland's second report had been presented, concern had been expressed about the absence of specific provisions in the Code of Criminal Procedure to exclude from evidence confessions that might have been obtained under duress. Had anything been done to remedy that situation? She shared Mr. Wieruszewski's concern on the restrictions that were placed on the right of appeal in certain cases.

22. Article 64 of the Constitution had now been amended to read "No one shall be exempt from civic duties by reason of religious belief". Was it intended in future to adopt a more tolerant approach to those who sought exemption on grounds of conscience?

23. Mr. BHAGWATI asked whether the requirements of article 9, paragraph 3, of the Covenant had been met in the amended Constitution. He would also like to know how the new subsection of section 73 of the Constitution, whereby a person could be compelled to be a member of an association under certain circumstances, was compatible with article 22 of the Covenant, since it would seem to violate negative freedom of association. Was the principle of multiplicity of trade unions recognized in Iceland, and could there be more than one trade union in a single industry?

24. Mr. EL SHAFEI, referring to paragraph 22 of the report, said he would appreciate more information about the results achieved by the four-year plan of action to ensure equal status of men and women, particularly in the rural areas. It had been stated that courts in Iceland had the right to review laws. Was that right laid down in the Constitution, and how did it work in practice?

25. Mr. PRADO VALLEJO noted that paragraph 71 of the report stated that the new provision on freedom of expression in the amended Constitution was intended to make the wording and substance of section 72 "more modern". It was important that the provision should not only be modernized, but should also reflect both the letter and the spirit of article 19. He would like to know whether that had been done. Again, he would appreciate clarification of the last sentence of paragraph 73, which referred to a Supreme Court ruling that a particular criminal statute did not "unreasonably" infringe freedom of expression. What was meant by "unreasonably", and under what circumstances could restrictions be placed on that freedom?

26. Mr. YALDEN said he would be grateful for a reply to his earlier question as to whether the existing or proposed anti-discrimination legislation covered discrimination on grounds of sexual orientation.

27. Mr. KLEIN said a member of the delegation had stated at the previous meeting that the fact that Iceland adhered to the dualistic theory made it more difficult to incorporate the Covenant into domestic law. Many other countries, including Germany, also subscribed to that theory, and he did not think it should be a serious impediment. The procedure of incorporation was not a difficult one, since acceptance and ratification of an international treaty by a country's parliament implied that the provisions of the treaty would become applicable within that country.

28. Mr. GEIRSSON (Iceland) thanked all members of the Committee who had taken part in dialogue with his delegation. The dialogue had been most instructive, and Iceland had learned a great deal from it.

29. With regard to Mr. Klein's point, he had not in fact said that the dualistic theory made it more difficult for his country to incorporate the Covenant into domestic law. On the contrary, countries which subscribed to that theory had an additional reason for making such an incorporation. A number of members had expressed concern about restrictions placed on the right of appeal under Iceland's criminal procedure in cases involving minor offences. Those restrictions by no means precluded re-examination of a case by a higher court, since a convicted person could always petition the Supreme Court for leave to appeal, even if the sanctions imposed were within the limits specified. Since there were only eight lower courts and one Supreme Court in Iceland, it was logical that the case burden on the Supreme Court should be limited to the greater extent possible.

The meeting was suspended from 4.10 p.m. to 4.40 p.m.

30. Mr. GUDMUNDSSON (Iceland), replying to questions raised by Lord Colville, said that, generally speaking, the new criminal procedure had been successful and no major problems had been encountered. The general rule was that a convicted person should bear the costs of his trial, but it should be remembered that costs in criminal cases in Iceland were seldom very high. In the matter of the right to presumption of innocence, article 70, paragraph 2, of the amended Constitution stipulated that anyone charged with a criminal offence was to be presumed innocent until proved guilty. In reply to Ms. Evatt's point he said that no exemption from civic duties on grounds of conscience was permitted under Icelandic law.

31. In response to Mr. Bhagwati's question about the wording of the provision in the Icelandic Constitution that corresponded to article 19, paragraph 3 of the Covenant, he drew attention to paragraphs 117 to 147 of Iceland's second periodic report (CCPR/C/46/Add.5). Mr. El Shafei's question about the four-year plan of action on equal wages had been answered in the reply given at the previous meeting to paragraph 2 (a) of the list of issues.

32. As to Mr. Prado Vallejo's query about the restrictions imposed by article 73 of the Constitution on the right to freedom of expression, the specific restrictions mentioned in article 73 were fully in keeping with those authorized in paragraph 3 of article 19 of the Covenant, namely those provided by law in the interests of public order, national security and the protection of public health, morals and the rights and reputations of others.

33. In response to the follow-up question by Mr. Yalden, he said the only provision in Icelandic law that still discriminated against homosexuals was the prohibition on them adopting children.

34. Replying to a supplementary question by Mr. WIERUSZEWSKI on the implementation of article 22, he said there were no known cases of discrimination in the suspension of foreign associations.

35. The CHAIRPERSON, summing up the discussion on Iceland's third periodic report, thanked the delegation for the additional information provided. Members of the Committee had remarked on the excellent quality of the report, which had taken account of the observations made by the Committee during the consideration of the previous report. They had noted the intensive legislative activity since the consideration of the second report, including amendments to the Constitution that had given substance to the rights enunciated in the Covenant, thereby improving the already commendable situation with regard to enjoyment of human rights in Iceland.

36. The Committee's main concerns revolved around incorporation of the Covenant in domestic legislation with a view to ensuring the Covenant's primacy. Iceland appeared to favour the European Convention on Human Rights over the Covenant. The adoption of that Convention represented a great achievement, but certain rights were not guaranteed, such as those set forth in articles 24, 25 and 27 of the Covenant. It was to be hoped that the institution established to consider incorporation of the Covenant into domestic law would soon complete its work with a view to achieving such an outcome in the very near future. Members of the Committee had also drawn attention to the gap in Icelandic legislation concerning the guarantees of non-discrimination set out in article 26 of the Covenant. She expressed the hope that the problem mentioned would be resolved by the time the Committee came to consider the fourth periodic report.

37. Mr. GEIRSSON (Iceland) thanked the Chairperson and members of the Committee for the excellent discussion, which would be reported to his Government and would surely serve to enhance human rights in Iceland.

38. The delegation of Iceland withdrew.

The public part of the meeting rose at 4.55 p.m.